

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Status of Claims:

No claims are currently cancelled.

Claims 1-4, 6, 7, 11 and 12 are currently being amended, whereby these amendments have been made to change the “means plus function” language in the claims to “non-means” language, and whereby no other substantive amendments have been made to the claims.

No claims are currently being added.

This amendment and reply amends claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-15 remain pending in this application.

Indication of Allowable Subject Matter:

Applicants appreciate the indication of allowable subject matter made in the Office Action with respect to claims 2, 3, 7, 8, 12 and 13.

Claim Rejections – Prior Art:

In the Office Action, claims 1, 6 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,708,968 to Suzuki; claims 4, 9 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki in view of U.S. Patent No. 5,886,988 to Yun; and claims 5, 10 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki in view of U.S. Patent No. 5,396,648 to Patsiokas. These rejections are traversed for the reasons given below.

According to the present invention, when there is a connection request to a wireless apparatus (e.g., a base station) supporting adaptive modulation from another wireless apparatus supporting adaptive modulation (e.g., a terminal), no matter what modulation method is used for communication at first, a threshold value of a parameter of communication environment of a transmission path at which communication is possible under the modulation

method having larger multi-value number and used commonly by the apparatuses is compared with a parameter measured at that time point, and when the measured parameter is determined to be not lower than the threshold value, the base station permits allocation of a wireless channel. As a result, possible degradation of communication quality expected to occur at the time of switching the modulation method after the connection is established can be prevented.

On the contrary, Suzuki has nothing at all to do with such adaptive modulation. Rather, Suzuki simply determines the priority of channel allocation based on the range of a measured CIR value. Suzuki does not disclose or suggest a step of determining, at the initial point when connection is requested, whether the communication environment of the transmission path is in a state allowing communication without degrading communication quality when modulation method is switched to one having larger multi-value number when modulation method is switched to one having larger multi-value number in order to solve the problem expected to occur when the modulation method is switched.

Since neither Yun nor Patsiokas rectifies the above-mentioned deficiencies of Suzuki, all of the presently pending claims under rejection are patentable over the cited art of record.

Conclusion:

Since all of the issues raised in the Office Action have been addressed in this Amendment and Reply, Applicants believe that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date January 9, 2007

By Phillip J. Articola

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5485
Facsimile: (202) 672-5399

William T. Ellis
Registration No. 26,874

Phillip J. Articola
Registration No. 38,819